

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 DOTE-00 L-03 CIAE-00
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DRAFTED BY EB/OA/AN:WARILEY:JG
APPROVED BY EB/TRA:JATWOOD
EUR/WE:EJBEIGEL
CAB:FMURPHY
DOT:JFLYNN
L/EB:JBELLO
EB/OA:MHSTYLES
EB/AN:JBMAGNOR

-----078315 012027Z /70

O 012009Z MAR 78
FM SECSTATE WASHDC
TO AMEMBASSY ROME IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, IT

SUBJECT: CIVAIR: REPLY TO GOI CAPACITY FREEZE

REF: (A) ROME 2812 (B) 77 ROME 5740 (C) 77 ROME 7439

1. FOLLOWING IS TEXT OF NOTE REPLYING TO MFA NOTE 079/2688
DATED FEB. 10, 1978, ON FINAL SUMMER SCHEDULE FILING
(REF A). PLEASE NOTE THAT US TEXT INDICATES THAT
APPROPRIATE CAPACITY LEVEL FOR FREEZE IS SCHEDULE APPROVED
APRIL 1, 1977, IN MFA NOTE 079/6144 (REF B). DEPT. FILES
DO NOT REFLECT PRECISE CHARACTERISTICS OF SCHEDULE REFER-
RED TO IN REF B. HOWEVER, WE ASSUME SCHEDULE INCLUDES USE
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OF B-747 BY PAN AM BEYOND ROME SINCE REF C CITES APPROVAL
OF REVISED PAN AM SCHEDULE WITH "...SIX FREQUENCIES BEYOND
ROME USING B-747...".

2. ACTION REQUESTED: (A) PLEASE CONFIRM FROM EMBASSY
FILES THAT SCHEDULE CITED IN REF B IS APPROPRIATE SCHEDULE
AND CONTAINS B-747 SERVICE BEYOND ROME. (B) IF (A)

CONFIRMED, DELIVER FOLLOWING NOTE TO MFA; OTHERWISE,
ADVISE DEPT. OF SCHEDULE CONTENTS.

BEGIN TEXT:

(PARA) THE EMBASSY REFERS TO THE MINISTRY OF FOREIGN
AFFAIRS NOTE NUMBER 079/2688 DATED FEBRUARY 10, 1978,
CONCERNING THE FINAL COMBINED AND ALL-CARGO SERVICE
SUMMER SCHEDULES OF THE UNITED STATES AIRLINES. THE
ABOVE MENTIONED NOTE REQUESTS THE UNITED STATES GOVERN-
MENT TO FREEZE THE UNITED STATES AIRLINES' SUMMER
SCHEDULES TO THE SAME LEVEL AND PATTERN OF SERVICE
OPERATED IN 1977.

(PARA) THE UNITED STATES GOVERNMENT CANNOT ACCEPT THE
UNILATERAL ADDITION OF "PATTERN" BY THE GOVERNMENT OF
ITALY AS A RESTRICTIVE CATEGORY ON UNITED STATES AIRLINES
OPERATIONS IN THE EVENT OF A FREEZE UNDER PARAGRAPH 5(F)
OF THE MEMORANDUM OF UNDERSTANDING OF MAY 22, 1970. PARA-
GRAPH 5(F) OF THE MEMORANDUM OF UNDERSTANDING PROVIDES,
INTER ALIA THAT: "IF THE PARTIES DO NOT FIND THAT THE
LEVEL OF CAPACITY WAS APPROPRIATE THEY SHALL THEN
DETERMINE WHETHER THE CAPACITY OF THE AIRLINES INVOLVED
FOR THE FOLLOWING CORRESPONDING SEASON SHOULD BE ESTAB-
LISHED (1) AT A LEVEL DETERMINED BY MUTUAL AGREEMENT OF
THE PARTIES OR (2) IN CASE OF DISAGREEMENT, AT THE SAME
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LEVEL WHICH PREVAILED DURING THE SEASON UNDER REVIEW."
IT WAS NEITHER INTENDED NOR IS IT SPECIFIED IN PARAGRAPH
5(F) OF THE MEMORANDUM OF UNDERSTANDING THAT ANYTHING
OTHER THAN THE LEVEL OF CAPACITY BE FROZEN IN THE EVENT
OF A DISAGREEMENT ON WHETHER EXCESS CAPACITY WAS OPERATED
BY THE AIRLINES OF EITHER PARTY.

(PARA) WITH REGARD TO THE APPROPRIATE LEVEL OF CAPACITY
FOR THE 1978 SUMMER SEASON, THE UNITED STATES GOVERNMENT
REMINDS THE GOVERNMENT OF ITALY THAT CONSULTATIONS WERE
HELD IN ROME ON MARCH 14-15, 1977, AT THE ITALIAN GOVERN-
MENT'S REQUEST, UNDER PROVISIONS CONTAINED IN PARAGRAPH
5(B) OF THE MEMORANDUM OF UNDERSTANDING, TO DISCUSS
ITALIAN OBJECTIONS TO THE UNITED STATES AIRLINES' 1977
SUMMER SCHEDULES WHICH WERE FILED WITH THE ITALIAN GOVERN-
MENT IN ACCORDANCE WITH PARAGRAPH 5(A) OF THE MEMORANDUM
OF UNDERSTANDING. SUBSEQUENT TO AND AS A DIRECT RESULT
OF THESE CONSULTATIONS AND AS PROVIDED FOR IN PARAGRAPH
5(E) OF THE MEMORANDUM OF UNDERSTANDING, THE ITALIAN
GOVERNMENT NOTIFIED THE UNITED STATES GOVERNMENT IN
MINISTRY OF FOREIGN AFFAIRS NOTE NUMBER 079/6144 DATED

APRIL 1, 1977, THAT THE UNITED STATES AIRLINES' 1977 SUMMER SCHEDULES (WITH EXCEPTION OF CARGO) COULD BE PUT INTO EFFECT AS PROVIDED UNDER PARAGRAPH 5 OF THE MEMORANDUM OF UNDERSTANDING. LATER AMENDMENTS OF THE UNITED STATES AIRLINES' SCHEDULES, IN LARGE PART NECESSITATED BY AN AVIATION DISASTER, DO NOT ALTER THE FACT THAT THE SCHEDULES PROPOSED BY THE UNITED STATES SIDE IN ACCORDANCE WITH PARAGRAPH 5(A) AND OBJECTED TO BY THE ITALIAN GOVERNMENT UNDER PARAGRAPH 5(B) DURING CONSULTATIONS IN MARCH AND LATER ALLOWED TO BE PUT INTO EFFECT UNDER PARAGRAPH 5(E), ARE THE SCHEDULES ON WHICH A FREEZE SHOULD BE BASED.

(PARA) THE RECENT EX POST FACTO CONSULTATIONS HELD IN LIMITED OFFICIAL USE

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WASHINGTON, D.C., JANUARY 23-27, 1978, EXAMINED DATA BASED ON ACTUAL OPERATIONS IN THE SUMMER OF 1977. IT COULD NOT HAVE BEEN OTHERWISE. ALTHOUGH THE ITALIAN DELEGATION ARGUED THAT THE ACTUAL SERVICES OFFERED BY THE UNITED STATES AIRLINES TO ITALY IN THE SUMMER OF 1977 WERE EXCESSIVE, IT DOES NOT FOLLOW THAT THE FREEZE INVOKED BY THE GOVERNMENT OF ITALY UNDER THE PROVISIONS OF ARTICLE 5(F) OF THE MEMORANDUM OF UNDERSTANDING SHOULD BE BASED ON A STANDARD DIFFERING FROM THE LEVEL OF UNITED STATES SERVICE INITIALLY OBJECTED TO, DISCUSSED IN ANTE FACTO CONSULTATIONS, AND ALLOWED TO BE PUT INTO EFFECT BY THE GOVERNMENT OF ITALY.

(PARA) THEREFORE, THE UNITED STATES GOVERNMENT CANNOT ACCEPT THE GOVERNMENT OF ITALY'S REQUEST THAT UNITED STATES AIRLINES BE FROZEN AT THE LEVEL ACTUALLY OPERATED DURING THE SUMMER OF 1977 AND INFORMS THE ITALIAN GOVERNMENT THAT, IN CONFORMITY WITH THE SPIRIT AND LETTER OF THE UNITED STATES-ITALY AIR TRANSPORT AGREEMENT OF 1970 AND THE MEMORANDUM OF UNDERSTANDING, THE UNITED STATES AIRLINES WILL ADJUST OPERATIONS TO CONFORM OVERALL LEVELS OF SERVICE FOR THE 1978 SUMMER SEASON WITH THE LEVEL OF 1977 SUMMER SCHEDULES AS APPROVED BY THE GOVERNMENT OF ITALY IN MINISTRY OF FOREIGN AFFAIRS NOTE NUMBER 079/6144 DATED APRIL 1, 1977.

END TEXT.
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